FLORIAN R. GAOIRAN, PETITIONER, VS. HON. ANGEL C. ALCALA, RETIRED CHAIRMAN, COMMISSION ON HIGHER EDUCATION, ESTER ALBANO GARCIA, NOW CHAIRMAN, COMMISSION ON HIGHER EDUCATION, FE...

G.R. No. 150178. November 26, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before the Court is a petition for review on certiorari under Rule 45 of the Rules of Court filed by Florian R. Gaoiran, seeking to reverse and set aside the Decision[1] of the Court of Appeals in CA-G.R. SP No. 61477. In the assailed decision, the appellate court reversed the Decision dated February 15, 2000 of the Regional Trial Court (RTC) of Cauayan, Isabela, Branch 20, nullifying the Resolution dated June 3, 1999 of Hon. Angel C. Alcala, then Chairman of the Commission on Higher Education (CHED), dismissing petitioner Gaoiran from the service for grave misconduct and conduct prejudicial to the best interest of the service.

The factual antecedents of the case are as follows:

On October 29, 1997, a letter-complaint was filed with the CHED against petitioner Gaoiran, Head Teacher III in the High School Department of the Angadanan Agro-Industrial College (AAIC),[2] a state-supervised school in Angadanan, Isabela. In his letter-complaint, respondent Edmond M. Castillejo, Administrative Officer II, also of the same school, charged the petitioner with mauling him while he was performing his duties therein. The incident allegedly took place on August 15, 1997 at 2:30 p.m. inside the school premises. Appended to the letter-complaint were the verified criminal complaint filed by respondent Castillejo against the petitioner and the sworn statements of his witnesses. The criminal complaint for assault to a person in authority was filed with the Municipal Circuit Trial Court of Angadanan-San Guillermo and docketed as Criminal Case No. 97-42.

The letter-complaint was referred to the Legal Affairs Service of the CHED. Thereafter, Atty. Felina S. Dasig, then Officer-in-Charge of the Office of the Director III, Legal Affairs Service, conducted a fact-finding investigation on the mauling incident to determine the existence of a prima facie case against the petitioner.

During the fact-finding investigation, respondent Castillejo averred that at 2:30 p.m. on August 15, 1997, while he was performing his usual duties as Administrative Officer II, the petitioner suddenly barged into his (Castillejo's) office and, then and there, assaulted and boxed him. The petitioner delivered blows on respondent Castillejo's head, left eye, left eyebrow and lower lip. Not content with the injuries he inflicted on respondent Castillejo, the petitioner tried to throw him down the stairs but was prevented by the timely intervention of Mr. Ismael Bautista, Accountant I of the same school. Bautista and other employees of the AAIC corroborated respondent Castillejo's statements. Moreover, the medical certificate issued by Dr. Belinda L. Miguel showed that on August 15, 1997, she treated respondent Castillejo for the wounds he sustained on his left eye, left eyebrow and lower lip.

For his part, the petitioner averred that at around 2:30 p.m. of August 15, 1997, he was about to leave the school

premises. Suddenly, respondent Castillejo shouted to the security guard to “punch out” the petitioner’s attendance card. This irked the petitioner because there were students and other teachers in the vicinity. The petitioner confronted respondent Castillejo and asked the latter why he had to embarrass him (petitioner) in front of the students. Respondent Castillejo just turned his back and proceeded to his office. The petitioner followed him and later saw that respondent Castillejo was already holding a wrench. Inside respondent Castillejo’s office, the petitioner made a side step and just then, respondent Castillejo slipped and fell flat on the floor. The petitioner noticed that respondent Castillejo’s left eyebrow was bleeding and he was putting up a struggle (nagpupumiglas), so the petitioner held his feet. While going down the stairs, the petitioner met Bautista and Henry Rupac, Watchman I of the school.

After the fact-finding investigation was terminated, and upon finding of a prima facie case against the petitioner for grave misconduct and conduct prejudicial to the best interest of the service, Atty. Dasig issued the Formal Charge and Order of Preventive Suspension dated July 27, 1998 stating in part:

> WHEREFORE, you are hereby directed to answer in writing and under oath the above charges against you within ten (10) days from receipt thereof, submitting therewith sworn statements of your witnesses and other pertinent documents, if any. In your answer, you are directed to state whether or not you elect a formal hearing of the charges against you or you waive your rights to such hearing. You are, likewise, advised of your right to counsel.
>
> Considering the gravity of the instant charge against you, pursuant to the provisions of P.D. 807, as amended, you are hereby PREVENTIVELY SUSPENDED FOR NINETY (90) DAYS WITHOUT PAY effective upon receipt thereof.[3]

The petitioner did not submit his written counter-affidavit or answer to the charges against him. Instead, he filed with the RTC of Cauayan, Isabela, Branch 20, a petition for certiorari and prohibition to restrain the enforcement of the said preventive suspension order. However, considering that the petitioner had already served the suspension, the case was dismissed for being moot and academic.

The petitioner sought reconsideration of the formal charge and preventive suspension order, contending that the letter-complaint was not under oath and that he was not informed nor apprised of the complaint against him before, during and after the preliminary fact-finding investigation.

Thereafter, Joel Voltaire V. Mayo, who was later appointed Director of the Legal Affairs Service of the CHED, issued the Resolution dated February 20, 1999, dismissing the administrative complaint against the petitioner on the ground that the letter-complaint of respondent Castillejo was not under oath.

However, respondent Hon. Angel C. Alcala, then Chairman of the CHED, apparently unaware of the existence of Director Mayo’s resolution, issued another Resolution dated June 3, 1999, finding the petitioner guilty of grave misconduct and conduct prejudicial to the best interest of the service and dismissing him therefrom. The dispositive portion of respondent Alcala’s resolution states:

> WHEREFORE, in the light of the foregoing, respondent FLORIAN R. GAOIRAN is hereby meted the penalty of DISMISSAL FROM THE SERVICE for unlawfully attacking a person in authority while in the active performance of his duties and responsibilities and, then and there, inflicted physical injuries on his person. This is without prejudice to the complainant’s right to institute the proper criminal and civil actions against the respondent relative thereto.
>
> The Vocational Schools Superintendent of Angadanan Agro-Industrial College, Angadanan, Isabela, is hereby directed to effectively implement this Order and to submit a report thereon within three (3) days upon implementation.

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SO ORDERED.[4]

The petitioner received a copy of the above resolution on July 12, 1999, which was served on him by respondent Felipe P. Ammugauan, Sr., School Superintendent I of AAIC.

The petitioner then filed with the RTC of Cauayan, Isabela, Branch 20, a petition for certiorari, prohibition and injunction. He alleged that respondent Alcala committed grave abuse of discretion when, in the Resolution dated June 3, 1999, he dismissed the petitioner from the service despite the fact that the administrative complaint against him had already been dismissed per the Resolution of February 20, 1999 of Director Mayo of the Legal Affairs Service.

In its Decision dated February 15, 2000, the RTC rendered judgment in favor of the petitioner as it declared the June 3, 1999 Resolution of respondent Alcala null and void. The RTC found that after the formal charge was filed against the petitioner and he chose not to file an answer thereto, a formal investigation was still required to be conducted under the Civil Service Rules. When Director Mayo of the Legal Affairs Service, in his February 20, 1999 Resolution, dismissed the administrative complaint against the petitioner on the ground that the letter-complaint was not under oath, the formal investigation had not, as yet, been terminated. Such dismissal, according to the RTC, put an end to the litigation. Thus, respondent Alcala acted with grave abuse of discretion in issuing his June 3, 1999 Resolution, dismissing the petitioner from the service, for the reason that the administrative complaint against him had already been dismissed.

On appeal by the respondents, the Court of Appeals (CA), in the assailed Decision of September 10, 2001, reversed and set aside the decision of the RTC. The CA declared as valid respondent Alcala's June 3, 1999 Resolution, dismissing the petitioner from the service. On the other hand, it declared as "without legal effect" Director Mayo's February 20, 1999 Resolution, dismissing the administrative complaint against the petitioner.

In so ruling, the CA noted an apparent irregularity in Director Mayo's February 20, 1999 Resolution. The CA pointed out that while the said resolution was ostensibly dated February 20, 1999, a copy thereof was mailed to respondent Castillejo only on July 6, 1999 and received by the latter only on July 14, 1999. The petitioner, for his part, received a copy thereof only on July 1, 1999. Prior to these dates, the existence of the said resolution had not been established; hence, the date of its actual issuance remained doubtful. The CA ruled that between the two conflicting resolutions, Director Mayo's February 20, 1999 Resolution and respondent Alcala's June 3, 1999 Resolution, the latter was entitled to the presumption of regularity. Moreover, respondent Alcala, as then Chairman of the CHED, had the authority to reverse and set aside the acts or issuances of his subordinates, including that of Director Mayo.

The CA further ratiocinated that, even granting that the February 20, 1999 Resolution was regularly issued, Director Mayo nonetheless overstepped his authority because Atty. Dasig, then OIC of the Legal Affairs Service, had filed the formal charge and order of preventive suspension against the petitioner as early as July 27, 1998. The CA also held that, contrary to Director Mayo's ruling, the fact that the letter-complaint was not under oath was not fatal. Even an anonymous complaint may be acted upon by the authority concerned provided that the same is verifiable, since under Section 48[5] of Executive Order (E.O.) No. 292,[6] administrative proceedings may be commenced against a subordinate officer or employee by the Secretary or head of office of equivalent rank, or head of local government or chiefs of agencies, or regional directors.

The CA, likewise, opined that in administrative proceedings, a formal or trial-type hearing is not, at all times, necessary. In this case, the petitioner was not denied procedural due process as he was afforded a fair and reasonable opportunity to explain his side. On the other hand, the CA declared that respondent Ester Albano Garcia, who replaced respondent Alcala as Chairman of the CHED, was denied procedural due process by the

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RTC when it rendered its decision without awaiting her answer to the petition. The dispositive portion of the assailed CA decision reads:

> WHEREFORE, premises considered, the appealed decision is hereby REVERSED AND SET ASIDE. Accordingly, the Resolution dated June 3, 1999 of then Chairman of CHED, Angel C. Alcala is hereby declared valid while the Resolution dated February 20, 1999 of Director Joel Voltaire Mayo is hereby declared to be without legal effect.
>
> SO ORDERED.[7]

Aggrieved, the petitioner now comes to this Court alleging as follows:

> - THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OF LAW FOR NOT UPHOLDING THE EXPRESS PROVISIONS OF THE CIVIL SERVICE LAW ESPECIALLY RULE XIV, SECTION 2 OF THE OMNIBUS RULES IMPLEMENTING BOOK 5 OF EXECUTIVE [ORDER] NO. 292 AND OTHER PERTINENT CIVIL SERVICE LAWS, SECTION 2, SECTION 4 AND PARAGRAPH D OF SECTION 4;
>
> - THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OF LAW IN NOT HOLDING THAT A VOID COMPLAINT IS DEEMED INEXISTENT;
>
> - THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OF LAW IN NOT ORDERING A FORMAL INVESTIGATION OF THE CHARGES PROFFERED AGAINST THE PETITIONER THERE BEING NO FORMAL INVESTIGATION CONDUCTED BY THE COMMISSION;
>
> - THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OF LAW IN HOLDING THAT RESPONDENT ESTER ALBANO GARCIA WAS DENIED DUE PROCESS OF LAW KNOWING THAT THE LATTER, BEING A NOMINAL PARTY, THE LOWER COURT MAY DISPENSE WITH HER ANSWER TO THE PETITION;
>
> - THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN HOLDING THAT THE FORMAL CHARGE AND ORDER OF PREVENTIVE SUSPENSION IS LEGAL.[8]

As the petitioner himself submits, the foregoing issues are interrelated; hence, they shall be resolved jointly.

The petitioner vigorously contends that the letter-complaint of respondent Castillejo should be deemed inexistent as it was not made under oath. Consequently, the formal charge and order of preventive suspension filed against him, which stemmed from the said letter-complaint, was, likewise, null and void. The petitioner cites Section 2,[9] Rule XIV of the Omnibus Rules Implementing Book V of E.O. No. 292, which requires that an administrative complaint against a civil service official or employee be in writing and under oath. Moreover, the letter-complaint did not allegedly comply with Section 4(d)[10] of Civil Service Commission (CSC) Resolution No. 94-0521,[11] also known as the Uniform Rules of Procedure in the Conduct of Administrative Investigation, and the law then in force at the time, because it did not contain a certification of non-forum shopping.

Since respondent Castillejo's letter-complaint failed to comply with the formal requirements of the law, the petitioner maintains that Director Mayo rightfully dismissed the same and that respondent Alcala abused his discretion when he dismissed the petitioner from the service.

The Court is not persuaded.

The pertinent provisions governing the initiation of administrative complaints against civil service officials or employees are provided in Book V of E.O. No. 292. Sections 46(c) and 48(1) and (2), Chapter 6, Subtitle A thereof read:

> Sec. 46. Discipline: General provisions. –
>
> (c) Except when initiated by the disciplining authority, no complaint against a civil service official or employee shall be given due course unless the same is in writing and subscribed and sworn to by the complainant.
>
> ...
>
> Sec. 48. Procedures in Administrative Cases Against Non-Presidential Appointees. – (1) Administrative proceedings may be commenced against a subordinate officer or employee by the Secretary or head of office of equivalent rank, or head of local government, or chiefs of agencies, or regional directors, or upon sworn, written complaint of any other persons.
>
> (2) In the case of a complaint filed by any other persons, the complainant shall submit sworn statements covering his testimony and those of his witnesses together with his documentary evidence. If on the basis of such papers a prima facie case is found not to exist, the disciplining authority shall dismiss the case. If a prima facie case exists, he shall notify the respondent in writing, of the charges against the latter, to which shall be attached copies of the complaint, sworn statements and other documents submitted, and the respondent shall be allowed not less than seventy-two hours after receipt of the complaint to answer the charges in writing under oath together with supporting sworn statements and documents, in which he shall indicate whether or not he elects a formal investigation if his answer is not considered satisfactory. If the answer is found satisfactory, the disciplining authority shall dismiss the case.

On the other hand, Section 2, Rule XIV of the Omnibus Rules Implementing Book V of E.O. No. 292, cited by the petitioner, reads:

> Sec. 2. Any person may file an administrative complaint with the Commission or any of its proper office. Said complaint shall be in writing and under oath, otherwise, the same shall not be given due course.

Further, Section 4(d) of CSC Resolution No. 94-0521, likewise, invoked by the petitioner, states:

> Sec. 4. Complaint in Writing and Under Oath. – No complaint against a civil servant shall be given due course, unless the same is in writing and under oath.
>
> The complaint should be written in a clear manner, simple and concise language and in a systematic manner as to apprise the civil servant concerned of the nature and cause of the accusation against him and to enable him to intelligently prepare his defense or answer.
>
> The complaint shall also contain the following:
>
> ...
>
> (d) a statement that no other administrative action or complaint against the same party involving the same acts or omissions and issues has been filed before another agency or administrative tribunal.
>
> In the absence of any one of the above-mentioned requirements, the complaints shall be dismissed.

It must be pointed out that, while the letter-complaint of respondent Castillejo was not concededly verified, appended thereto were the verified criminal complaint that he filed against the petitioner, as well as the sworn statements of his witnesses. These documents could very well be considered as constituting the complaint against the petitioner. In fact, this Court, through the Court Administrator, investigates and takes cognizance of, not only unverified, but also even anonymous complaints filed against court employees or officials for violations of the Code of Ethical Conduct.[12] Indeed, it is not totally uncommon that a government agency is given a wide latitude in the scope and exercise of its investigative powers.[13] After all, in administrative proceedings,

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technical rules of procedure and evidence are not strictly applied.[14]

In any case, contrary to the petitioner's assertion, the letter-complaint of respondent Castillejo is not a "complaint" within the purview of the provisions mentioned above. In the fairly recent case of Civil Service Commission v. Court of Appeals,[15] this Court held that the "complaint" under E.O. No. 292 and CSC rules on administrative cases "both refer to the actual charge to which the person complained of is required to answer and indicate whether or not he elects a formal investigation should his answer be deemed not satisfactory."

In this case, respondent Castillejo's letter-complaint contained the following averments:

> The undersigned wish to file his complaint against Mr. Florian R. Gaoiran, Head Teacher III of Angadanan Agro-Industrial College for mauling him last August 15, 1997 at around 2:30 in the afternoon for the accused to be disciplined. The case is now filed in the Court of Justice docketed under Criminal Case No. 97-42 for "Assault to Person in Authority".
>
> I am Mr. Edmond M. Castillejo, Administrative Officer II of Angadanan Agro-Industrial College, Angadanan, Isabela, furnishing you a copy of my complaint filed in court, all under oath, for you to determine the gravity of the case administratively. Mr. Florian R. Gaoiran is now intimidating two of the witnesses against him that's why may I request for an immediate investigation of the case, by the commission, for him to be suspended or probably removed from the service to avoid him from threatening the witnesses.
>
> Your preferential attention and favorable action in this request are earnestly requested and will be highly appreciated.[16]

Acting thereon, the CHED referred the matter to its Office of Legal Affairs Service and Atty. Dasig, as OIC Director thereof, conducted a fact-finding investigation on the incident. The said letter-complaint did not, by itself, commence the administrative proceedings against the petitioner, requiring an answer from him, but, as already mentioned, merely triggered a fact-finding investigation by the CHED.

The Court cannot, therefore, uphold the petitioner's contention that respondent Castillejo's letter-complaint was "inexistent" and could not be acted upon by the CHED for to do so, would result in an absurd and restrictive interpretation of E.O. No. 292 and effectively deprive the Government of its disciplining power over people who hold a public trust.[17]

In this case, it was the formal charge and order of preventive suspension filed by Atty. Dasig against the petitioner charging him with grave misconduct and conduct prejudicial to the best interest of the service and directing him to submit his answer in writing and under oath that constituted the complaint.[18] Notably, Atty. Dasig signed the formal charge and order of preventive suspension "for the Commission" in her capacity as then OIC of the CHED's Legal Affairs Service. As the complaint against the petitioner was initiated by the appropriate disciplining authority, under Sections 46(c)[19] and 48(1),[20] Chapter 6, Subtitle A, Book V of E.O. No. 292, the same need not be subscribed and sworn to. Neither is it required that the same contain a verification of non-forum shopping.

Section 47(2), Chapter 7 of E.O. No. 292 provides, in part, that "the Secretaries and heads of agencies and instrumentalities, provinces, cities and municipalities shall have jurisdiction to investigate and decide matters involving disciplinary action against officers and employees under their jurisdiction." Since it was the CHED,[21] as the disciplining authority, through Atty. Dasig, which filed the formal charge or complaint against the petitioner, jurisdiction was properly acquired over the case.

Anent the issue on which of the two conflicting resolutions is valid, the Court agrees with the CA that respondent Alcala's June 3, 1999 Resolution dismissing the petitioner from the service prevails over that of Director Mayo's

February 20, 1999 Resolution dismissing the administrative complaint.

First, the basis for the dismissal of the administrative complaint stated in Director Mayo's resolution, i.e., that the letter-complaint was not verified, is, as earlier discussed, patently erroneous. Second, it was issued by Director Mayo in excess of his authority. It is borne by the records that Atty. Dasig already filed the formal charge against the petitioner after a fact-finding investigation had been conducted on the mauling incident and a prima facie case had been established against him. The formal charge was filed as early as July 27, 1998 and, on September 21, 1998, Atty. Dasig submitted her memorandum to respondent Alcala recommending the petitioner's dismissal. It was, thus, highly irregular for Director Mayo to dismiss the administrative complaint against the petitioner long after the formal charge had already been filed against him and the matter was already for respondent Alcala's resolution. Third, respondent Alcala, by reason of his position as then Chairman of the CHED, had the authority to reverse and set aside the acts or issuances of his subordinates. His June 3, 1999 Resolution dismissing the petitioner from the service, in effect, reversed and set aside the Resolution dated February 20, 1999 of Director Mayo, his subordinate.

Finally, the petitioner insists that no formal investigation was conducted after the formal charge had been filed against him in violation of Section 22 of CSC Resolution No. 94-0521 which reads:

> Section 22. Conduct of Formal Investigation. – A formal investigation shall be held after the respondent has filed his answer or after the period for filing an answer has expired. It shall be completed within thirty (30) days from the date of the service of the formal charge, unless the period is extended by the Commission in meritorious cases.
>
> Although the respondent did not elect a formal investigation, one shall nevertheless be conducted if upon evaluation of the complaint, the answer, and the documents in support thereof, the merits of the case cannot be judiciously resolved without conducting such formal investigation.

The petitioner's allegation is, however, belied by respondent Alcala's statement in his resolution, to wit:

> Nevertheless, during the formal investigation of the case, respondent [referring to the petitioner] failed to submit his written counter-affidavit/answer to the charges filed against him by the complainant so he was declared in default. This notwithstanding, the oral testimony given during the fact-finding investigation was considered in his (respondent's) favor to enable this office to determine the veracity of the allegations imputed against the respondent.
>
> After weighing all the evidences [sic] submitted and the testimonies given by the witnesses for both complainant and the respondent, this office finds substantial evidence to hold the respondent administratively liable for violation of subparagraphs (2) and (27) of Section 46(b), Chapter 7, Title I-A, Book V of Executive Order No. 292 otherwise known as the "Administrative Code of 1987."...[22]

Significantly, the petitioner cannot rightfully claim that he was denied procedural due process. What is repugnant to due process is the denial of the opportunity to be heard.[23] The petitioner was undoubtedly afforded the opportunity to present his side as he was directed to file his written answer to the formal charge against him. He opted not to do so. He cannot now feign denial of due process.

Under Section 22, Rule XIV of the Omnibus Rules Implementing Book V of E.O. No. 292, grave misconduct on first offense is punishable by dismissal. On the other hand, conduct grossly prejudicial to the best interest of the service on first offense is punishable by suspension for six months and one day to one year.

In fine, the appellate court committed no reversible error in upholding respondent Alcala's Resolution of June 3, 1999 finding the petitioner guilty of grave misconduct and conduct prejudicial to the best interest of the service and dismissing him therefrom.

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WHEREFORE, premises considered, the petition is DENIED. The Decision dated September 10, 2001 of the Court of Appeals in CA-G.R. SP No. 61477 is AFFIRMED in toto.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

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[1] Penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justices Romeo A. Brawner and Mariano C. Del Castillo, concurring.

[2] Now known as the Isabela State University (ISU) Angadanan Campus after it was integrated to the ISU.

[3] Rollo, p. 89.

[4] Id. at 55-56.

[5] Infra.

[6] Also known as the Administrative Code of 1987.

[7] Rollo, p. 86.

[8] Id. at 14-15.

[9] Infra.

[10] Infra.

[11] This has now been superseded by CSC Resolution No. 991936, also known as the Uniform Rules on Administrative Cases in the Civil Service, which took effect on August 31, 1999.

[12] Montemayor v. Bundallan, 405 SCRA 264 (2003).

[13] Id. at 270.

[14] Id.

[15] G.R. No. 147009, March 11, 2004.

[16] Rollo, p. 32.

[17] Civil Service Commission v. Court of Appeals, supra.

[18] See note 3.

[19] Supra.

[20] Supra.

[21] Under Republic Act No. 7722, entitled An Act Creating the Commission on Higher Education, Appropriating Funds Therefor and For Other Purposes, the CHED was expressly declared to be independent of the Department of Education, Culture and Sports (DECS), and attached to the Office of the President for administrative purposes only (Section 3). It was approved on May 18, 1994.

[22] Rollo, p. 54.

[23] Escleo v. Dorado, 385 SCRA 554 (2002).

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